

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 277 of 2004

For Approval and Signature:

HON'BLE MR.JUSTICE JAYANT PATEL

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1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
 4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the concerned : NO
Magistrate/Magistrates, Judge/Judges, Tribunal/Tribunals?

MAHESHBHAI M MANWANI

Versus

STATE OF GUJARAT

Appearance:

1. Special Civil Application No. 277 of 2004
MR CL SONI for Petitioner No. 1
MR KP RAWAL, Ld. AGP for Respondent No. 1-3
RULE SERVED for Respondent No. 2-3
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CORAM : HON'BLE MR.JUSTICE JAYANT PATEL

Date of decision: 10/02/2005

ORAL JUDGEMENT

The petitioner has preferred this petition for

appropriate directions to the respondents to pay necessary amount to the petitioner under the relief package declared by the State Government for the earth-quake affected victims. The petitioner has also prayed for quashing of the order dated 30th October, 2001 Annexure "G" rejecting the claim of the petitioner as earth-quake affected victims.

2. Upon hearing Mr.Soni, learned Counsel for the petitioner and Mr.Rawal, learned AGP, it appears that there is no dispute on the point that the petitioner had applied for relief as earth-quake affected person. It is the case of the petitioner that the petitioner had purchased Flat No.101-FF of Harish Apartments, Gandhidham, Adipur and as the petitioner was holding the possession under agreement to sale and the premises came to be affected by the earth-quake, it was considered by the authority that the Flat was held by the original person namely Dayal G. Chaturani and not by the petitioner and the application of the petitioner for payment of the relief is rejected.

3. It also appears that the petitioner submitted application to the Lokpal. However, the communication dated 19.12.2002 made by the District Legal Services Authority to the Gujarat State Legal Services Authority shows that as the Collector has taken decision no further action is taken. It appears that in view of the decision of this Court in the case of "Bipinchandra J. Divan & Ors. v. State of Gujarat & Ors.", reported in 2001(2) GLR, 1394, in case any persons has any grievance for non-payment of the proper relief as earth-quake affected person, he has to apply to the learned District Judge, who has to work as Lokpal and after considering the evidence and the material which may be produced before him by the applicant as well as by the Governmental Authority, the decision is required to be rendered and such decision be treated as binding to the State Authority in the matter of payment of relief unless it is reversed by higher forum known to law. The position of law is settled and no further discussion is required in this regard.

4. Under the circumstances, I find that the following directions shall meet with the ends of justice:

4.1 The petitioner shall submit the application to the learned District Judge, Kutch District at Bhuch within a period of two weeks from today with detailed material to support his claim including that he was in possession and he is

affected by the earth-quake.

4.2 After the application is received, the learned District Judge shall examine the matter and if he finds that the petitioner was in possession of the flat in question and he is an earth-quake affected victim, appropriate directions shall be given by the learned District Judge to the concerned authority.

4.3 The aforesaid exercise shall be completed as early as possible, preferably within a period of three months from the date of receipt of such application by him from the petitioner.

4.4 In the event the direction is given by the learned District Judge to make payment of the relief as per the scheme of the State Government, after the conclusion of the inquiry, then in that case the necessary payment shall be disbursed to the petitioner within a period of two months from the date of receipt of the decision of the learned District Judge, unless the said decision is stayed by any other forum known to law.

The petition is disposed of in terms of the aforesaid directions. Rule partly made absolute. No order as to cost.

10.2.2005 (Jayant Patel, J.)

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